

**RE: COMPLAINT FILED BY (RET.) MCTC JUDGE RODOLFO B. GARCIA
AGAINST 18TH DIVISION CLERK OF COURT ATTY. MAY FAITH L.
TRUMATA-REBOTIACO, COURT OF APPEALS, CEBU CITY.**

A.M. No. CA-12-25-P. March 20, 2012

Ponente: SERENO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7a6f518c2370/>

SERENO, J.:

Before the Court is an administrative complainant filed by Retired Judges Rodolfo B. Garcia (Ret. Judge Garcia) of the Municipal Circuit Trial Court (MCTC) of Calatrava-Toboso, Negros Occidental, against respondent Atty. May Faith L. Trumata-Rebotiaco (Rebotiaco), Court of Appeals (CA) 18[th] Division Clerk of Court. The core issue at bench is whether respondent should be dismissed from service for allegedly issuing an irregular Writ of Execution.

Facts

The case stemmed from the Petition for Mandamus filed by Ret. Judge Garcia with the CA against the Government Service and Insurance System (GSIS), Winston F. Garcia, Jessie A. Mauricio, and Mila E. Santarroma (collectively GSIS, et al.). The Petition was to compel GSIS, et al. to pay in full the face value of complainant's life insurance policy. [1] On 20 February 2007, the 19[th] Division of the CA rendered a Decision, which stated the following in the dispositive portion:

WHEREFORE, the instant petition for mandamus is GRANTED. Respondent Government Service Insurance System (GSIS) is hereby DIRECTED to pay petitioner in the sum of Thirty-six Thousand Three Hundred Ninety-three Pesos and Eighty-one centavos (P36,393.81). No pronouncement as to costs.[2] (Underlining supplied)

The CA denied the Motion for Reconsideration of GSIS, et al. on 14 September 2007.[3] The Decision eventually became final, which led complainant to allegedly file a Motion to Issue Writ of Execution dated 22 November 2001.[4] He asserts that he filed three more motions thereafter. On 29 May 2008, the CA promulgated a Resolution directing the issuance of an Entry of Judgment of its 20 February 2007 Decision.[5]

Complainant posit[6] that it was only when he filed his fourth Motion to Issue Writ of Execution dated 11 July 2010 that the 18[th] Division of the CA promulgated its 2 August 2010 Resolution directing respondent- in her capacity as the Division Clerk of Court- to issue a corresponding writ of execution in order to enforce and carry out the pronouncements in the 20 February 2007 CA Decision.[7] Accordingly, she issued the writ, which quoted verbatim the dispositive portion of the 20 February 2007 CA Decision directing only the GSIS to pay the remaining balance of complainant's life insurance proceeds. Thus, Rebotiaco addressed the writ only to GSIS.[8] On 24 August 2010, complainant filed yet another Motion to Issue Writ of Execution.[9]

As the GSIS continued with its failure to comply with 20 February 2007 CA Decision,[10] Ret. Judge Garcia lodged the present administrative complaint against CA 18[th] Division Clerk of Court Rebotiaco on 7 June 2011.

Complainant faults her for the unsuccessful enforcement of the Writ of Execution, which was allegedly irregular. According to complainant, it was defective, as it was addressed only to a juridical person-GSIS-and not to the appropriate officers thereof, in violation of Section 11, Rule 51 of the Rules of Court. Complainant also posits that respondent failed to direct a sheriff to enforce the Writ of Execution. He claims that these are, inter alia, the reasons why the writ was not enforced.[11] Thus, he seeks the dismissal of respondent from service because of her "incompetence, inefficiency, negligence, ignorance of law, or abuse of authority," which allegedly "made her unfit for her position." [12]

On 22 August 2011, while the present Complaint was pending before this Court, Ret. Judge Garcia filed a motion for the issuance of another writ of execution or to amend the earlier Writ of Execution.[13] On 13 September 2011, the CA 19th Division issued a Resolution.[14] which noted the noncompliance of GSIS with the Writ of Execution and directed the 19[th] Division of Clerk of Court to issue an Alias Writ of Execution against specific officers of the GSIS. The pertinent portion of the 13 September 2011 CA Resolution states the following:

- ISSUE, with dispatch, the corresponding ALIAS WRIT OF EXECUTION directing The President and General Manager, The Chief, Claims and Loans Division, The Manager, and/or Any Appropriate Officer of the Government Service Insurance System, Pasay City, to enjoin and enforce the Decision dated February 20, 2007, the dispositive portion of which reads as follows:

x x x x x x x x

- DIRECT the Executive Judge of the Regional Trial Court, Pasay City to:

(a) Designate a special sheriff to enforce the ALIAS WRIT OF EXECUTION against the GOVERNMENT SERVICE and INSURANCE SYSTEM, Head Office, Financial Center, Reclamation Area, Roxas Boulevard, Pasay City;

(b) Require the special sheriff to make a Return of the Alias Writ of Execution immediately but not later than ten (10) days from its implementation, enforcement and service; and

(c) Submit the originals of the pertinent documents to this Court.[15]

Accordingly, 19[th] Division Clerk of Court, Atty. Joseph Stephen A. Ygnacio, issued an Alias Writ of Execution on 13 September 2011 commanding the GSIS and its above-mentioned officers to cause the execution of the 20 February 2007 CA Decision "conformably with the dispositive portion thereof and as ordered in the Resolutions dated August 2, 2010 and September 13, 2011." [16]

Issue

The main issue presented before this Court is whether or not the CA18th Division Clerk of Court committed an administrative offense when she (a) addressed the Writ of Execution solely to GSIS and (b) failed to direct a sheriff to enforce the writ.

Discussion

Complainant argues that the Writ of Execution issued by Rebotiaco, in her capacity as the CA 18[th] Division Clerk of Court, was irregular for violating Section 11, Rule 51 of the Rules of Court. The pertinent provision of the Rules of Court reads as follows:

SEC 11. Execution of Judgement. — Except where the judgment or final order or resolution, or a portion thereof, is ordered to be immediately executory, the motion for its execution may only be filed in the proper court after its entry.

In original actions in the Court of Appeals, its writ of execution shall be accompanied by a certified true copy of the entry of judgment or final resolution and addressed to any appropriate officer for its enforcement.

In appealed cases, where the motion for execution pending appeal is filed in the Court of Appeals at a time that it is in possession of the original record or the record on appeal, the resolution granting such motion shall be transmitted to the lower court from which the case originated, together with a certified true copy of the judgment or final order to be executed, with a directive for such court of origin to issue the proper writ for its enforcement. (n) (Emphasis supplied.)

This aforecited provision must be read in conjunction with Section 8, Rule 39, viz:

SEC. 8. Issuance, form and contents of a writ of execution. — The writ of execution shall: (1) issue in the name of the Republic of the Philippines from the court which granted the motion; (2) state the name of the court, the case number and title, the dispositive part of the subject judgment or order; and (3) require the sheriff or other proper officer to whom it is directed to enforce the writ according to its terms, in the manner hereinafter provided: x x x (Emphasis supplied)

It is a settled rule that a writ of execution should strictly conform to every essential particular of the promulgated judgment — as indicated in the dispositive portion (fallo) thereto^[17] — since it is portion of the decision that actually constitutes the resolution of the court.^[18] Consequently, even if there is a conflict between the dispositive portion and the opinion of a court contained in the body of the decision, it would be the dispositive portion.^[19] This principle is based on the theory that the dispositive portion is final order, while the opinion is merely a statement ordering nothing.^[20] A writ of execution would be rendered void if it is in excess of and beyond the original judgment or award spelled out in the dispositive portion of the decision.^[21]

We do not find any "incompetence, inefficiency, negligence, ignorance of the law, or abuse of authority" on the part of respondent when she (a) addressed the Writ of Execution solely to GSIS and (b) did not direct a sheriff to enforce the writ. She merely issued the Writ of Execution according to the literal text of the dispositive portion of the 20 February 2007 CA Decision. Since only the GSIS was directed to pay the remaining balance of complainant's life insurance proceeds, respondent cannot be faulted for issuing the writ sans an order against GSIS officers.

Neither can we condemn the Clerk of Court for her failure to direct a sheriff to enforce the writ. In a letter-reply dated 30 September 2010, the CA, through Executive Justice Portia Alino-Hormachuelos, explained:

The Writ was directed to the GSIS there being no Sheriff designated in the Court of Appeals.

In case of non-compliance, the general procedure observed is for this Court to issue the appropriate legal process against GSIS, and exercise its power of contempt to ensure enforcement.

It is highly recommended that you confer with the Legal Office of the GSIS Cebu City for the purpose of coordinating with the main branch in GSIS-Manila for the release of the amount awarded in your favor.

It is hoped that the foregoing clarified your concern.^[22] (Emphasis supplied.)

It was only upon the issuance of a Verification Report finding that the GSIS had continued to fail to comply with the writ that the CA promulgated the afore-quoted 13 September 2011 Resolution. The Resolution ordered the issuance of an Alias Writ of Execution and directed the Executive of the Pasay City RTC to designate a special sheriff who enforce the Alias Writ of Execution.^[23]

As we reiterated in *Viray v. Court of Appeals*, the order of execution by a court is the foundation of a writ of execution. No one but the court can amend what was granted in an order of execution, and its clerk of court can amend a writ of execution, the order of execution should first be amended.^[25]

In this case, had respondent exceeded the terms of the order - as expressed in the dispositive portion of the CA Decision- the writ would have been null and void.[26] We emphasize that the issuance of a writ of execution is ministerial, as it is founded on the judicial act of awarding or ordering an execution.[27] Thus, to have expected respondent to include the GSIS officers in the writ and to direct the appointment of a special sheriff who would enforce the writ would have had the effect of the Clerk of Court's arrogation in to herself of the power to exercise a judicial act in violation of the law.

WHEREFORE, the administrative complaint is hereby DISMISSED.

SO ORDERED.

Corona, C.J., Carpio, Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Bersamin, Abad, Villarama, Jr., Perez, Mendoza, Reyes, and Perlas-Bernabe, JJ., concur.
Del Castillo, J., on leave.

[1] The 20 February 2007 Decision in CA-G.R. CEB SP No. 82552 was penned by CA Associate Justice Agustin S. Dizon and concurred in by Associate Justice Isaias P. Dicdican and Francisco P. Acosta.

[2] CA Decision of 20 February 2007 at 10 (Garcia v. Government Service Insurance System, CA-G.R. CEB SP No. 82552), rollo, p. 47.

[3] Writ of Execution at 1 (issued on 2 August 2010) (Garcia v. Government Service Insurance System, CA-G.R. CEB SP No. 82552, decided on 2 August 2010), rollo, p. 4.

[4] Complaint at 1 (filed on 7 June 2011), rollo, p. 1

[5] Writ of Execution, supra note 3.

[6] Complaint, supra note 4.

[7] CA Resolution of 2 August 2010 at 2 (Garcia v. Government Service Insurance System, CA-G.R. CEB SP No. 82552), rollo, p. 6. The Resolution was penned by CA Associate Justice Socorro B. Inting and concurred in by Associate Justice Portia A. Hormachuelos and Edwin D. Sorongon.

[8] Writ of Execution, supra note 3. at 2, rollo, p. 5.

[9] CA Resolution of 13 September 2011 at 2 (Garcia v. Government Service Insurance System, CA-G.R. CEB SP No. 82552), rollo, p. 58.

[10] Id.

[11] Complaint, supra note 4 at 2, rollo, p. 2.

[12] Id.

[13] CA Resolution of 3 September 2011, supra note 9.

[14] The 13 September 2011 resolution in CA-G.R. CEB SP No. 82552 was penned by CA Associate Justice Victoria Isabel A. Parede and concurred in by Associate Justice Edgardo L. delos Santos and Ramon Paul L. Hernando.

[15] CA Resolution of 13 September 2011, supra note 9 at 2-3, rollo, pp. 58-59.

[16] Alias Writ of Execution at 3 (issued on 13 September 2011) (Garcia v. Government Service Insurance

System, CA-G.,R. SP. No. 82552, decided on 13 September 2011), rollo, p. 63.

[17] Ex-Bataan Veterans Security Agency, Inc. v. National Labor Relations Commission, 320 Phil. 517 (1995); Banquerigo v. Court of Appeals, 529 Phil. 826 (2006).

[18] Olac v. Court of Appeals, G.R. No. 84256, 15 September 1992, 213 SCRA 321; WILLARD B. Riano, CIVIL PROCEDURE- A RESTATEMENT FOR THE BAR, 494 (2009) citing RULES OF COURT, Rule 9, Sec. 8.

[19] Olac v. Court of Appeals, supra; Pelejo v. Court of Appeals, 201 Phil. 873 (1982), citing Robles v. Timario, 107 Phil. 809 (1960).

[20] Olac v. Court of Appeals, supra.

[21] Ex-Bataan Veterans Security Agency, Inc. v. National Labor Relations Commissions, supra note 17.

[22] Letter of CA Executive Justice Portia Alino-Hormachuelos, Annex 2 of Respondent's Comment, rollo, p. 57.

[23] CA Resolution of 13 September 2011, supra note 9 at 2-3 rollo, pp. 59-60.

[24] 350 Phil. 107 (1998).

[25] Id.

[26] Foremost Farms Incorporated v. Department of Labor and Employment, 321 Phil. 487 (1995).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.